

AMENDED IN ASSEMBLY MAY 12, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 771

Introduced by Assembly Member Atkins

February 25, 2015

An act to add and repeal Sections 38.10, 17053.91, and 23691 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST

AB 771, as amended, Atkins. Personal income and corporation taxes: credits: rehabilitation.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow to a taxpayer that receives a tax credit ~~reservation~~ *allocation* a credit against those taxes for each taxable year beginning on or after January 1, 2016, and before January 1, ~~2024~~, ~~2021~~, in an amount, determined in modified conformity with a specified section of the Internal Revenue Code, for rehabilitation of certified historic structures and, under the Personal Income Tax Law, for a qualified residence. This bill would provide for a 20% credit, or 25% credit, of qualified rehabilitation expenditures if the structure meets specified criteria, for rehabilitation of a certified historic structure or a qualified residence, as provided, within the state to be ~~reserved and~~ allocated by the California Tax Credit Allocation Committee, which shall consult with the Office of Historic Preservation, as provided, and which may adopt a reasonable fee to cover specified expenses. The aggregate amount of credit would be \$50,000,000 per calendar year, plus unused allocation tax credit for the preceding year, \$10,000,000

of which would be set aside for rehabilitation projects with qualified rehabilitation expenditures of less than \$1,000,000, as specified. This bill would require the Legislative Analyst to, on an annual basis, collaborate with the California Tax Credit Allocation Committee to review the tax credit, as provided.

This bill would make specified findings detailing the goals, purposes, and objectives of the above-described tax credits, performance indicators for determining whether the credits meet those goals, purposes, and objectives, and data collection requirements.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that
2 California's historic buildings are an important asset to
3 communities throughout the state, and that the preservation and
4 restoration of these buildings is important to enhancing civic pride,
5 increasing tourism, and maintaining vibrant neighborhoods.

6 (b) The Legislature further finds and declares all of the
7 following:

8 (1) The federal Historic Preservation Tax Incentives program,
9 enacted by Congress in 1986, established a 20-percent tax credit
10 for the rehabilitation of historic structures, which remains in effect
11 today. Program activity in the amount of investment dollars
12 reached record highs in the 1990s, before declining during the
13 recent recession. With the economy in general, and the real estate
14 market in particular, rebounding over the last several years, the
15 amount of rehabilitation investment in proposed projects exceeded
16 \$5.9 billion for the second time in the program's history. The
17 average investment in completed projects in the 2014–15 fiscal
18 year was \$4.32 million, the third highest amount in the program's
19 history. The program is currently available to California's income
20 producing historic properties, and has generated nearly \$1.5 billion
21 in investment during the last 10 years.

22 (2) While 35 states have similar state tax credits or incentives
23 for historic preservation, no such incentive exists in California.

24 (3) When used with federal historic preservation tax credits,
25 state historic rehabilitation tax credits provide an important

1 *financial incentive for reinvestment in the historic cores of*
2 *communities in the post-redevelopment economy. Historic*
3 *preservation tax incentives generate jobs, enhance property values,*
4 *create affordable housing, and augment revenues for federal, state,*
5 *and local governments. Through the federal program, vacant or*
6 *underutilized schools, warehouses, factories, apartments, churches,*
7 *retail stores, hotels, houses, farms, and offices throughout the*
8 *country have been restored to life in a manner that maintains their*
9 *historic character.*

10 ~~(3)~~

11 (4) States that have partnered a state incentive with the federal
12 Historic Preservation Tax Incentive *program* have reaped
13 significant economic development benefits, including construction
14 and building industry job creation, increased state tax revenues
15 through increased employment and wages, increased local property
16 tax revenues through increased property values, and increased
17 local tax revenues through sales taxes and heritage tourism.

18 (5) *The federal rehabilitation tax credit applies specifically to*
19 *income-producing historic properties, and throughout its history*
20 *has leveraged many times its cost in private expenditures on*
21 *historic preservation. This program is the largest federal program*
22 *specifically supporting historic preservation, generating over \$37*
23 *billion in historic preservation activity since 1976. During the*
24 *2014–15 fiscal year, the National Park Service approved 1,156*
25 *proposed projects, representing an estimated \$5.98 billion of*
26 *investment to restore and rehabilitate historic buildings.*

27 (6) *The federal Historic Preservation Tax Incentives program*
28 *remains an outstanding means of leveraging private investment*
29 *in the adaptive reuse and preservation of historic buildings. The*
30 *program continues to help stimulate economic recovery in older*
31 *communities, both large and small, throughout the nation, and*
32 *created an estimated 77,762 jobs in 2014.*

33 ~~(4)~~

34 (7) Over the last 10 years, California has had 129 projects
35 qualify for the federal Historic Preservation Tax Incentives
36 program. These projects have been located in 20 different counties.

37 ~~(5)~~

38 (8) As California communities continue to adjust and adapt to
39 the dissolution of redevelopment agencies, proven tools are still

1 needed to incentivize economic development and revitalize
2 economically distressed areas.

3 SEC. 2. Section 38.10 is added to the Revenue and Taxation
4 Code, to read:

5 38.10. (a) The Legislative Analyst shall, on an annual basis
6 beginning January 1, 2017, collaborate with the California Tax
7 Credit Allocation Committee to review the effectiveness of the
8 tax credits allowed by Sections 17053.91 and 23691. The review
9 shall include, but is not limited to, an analysis of the demand for
10 the tax credit, the types and uses of projects receiving the tax credit,
11 the jobs created by the use of the tax credits, and the economic
12 impact of the tax credits.

13 ~~(b) It the intent of the Legislature to enact legislation to comply~~
14 ~~with the requirements of Section 41.~~

15 (e)

16 (b) This section shall remain in effect only until January 1,
17 2025, 2022, and as of that date is repealed, ~~unless a later enacted~~
18 ~~statute, that is enacted before January 1, 2025, deletes or extends~~
19 ~~that date.~~

20 SEC. 3. Section 17053.91 is added to the Revenue and Taxation
21 Code, to read:

22 17053.91. For each taxable year beginning on or after January
23 1, 2016, and before January 1, ~~2024, 2021~~, there shall be allowed
24 to a taxpayer that receives a tax credit ~~reservation~~ *allocation* a
25 credit against the “net tax,” as defined in Section 17039, an amount
26 determined in accordance with Section 47 of the Internal Revenue
27 Code, except as follows:

28 (a) (1) In lieu of the percentages specified in Section 47(a) of
29 the Internal Revenue Code, except as provided in paragraph (2),
30 the applicable percentage shall be 20 percent of the qualified
31 rehabilitation expenditures with respect to a certified historic
32 structure.

33 (2) The applicable percentage shall be 25 percent of the qualified
34 rehabilitation expenditures with respect to a certified historic
35 structure if that certified historic structure meets one of the
36 following criteria:

37 (A) The rehabilitated structure is located on federal surplus
38 property, if obtained by a local agency under Section 54142 of the
39 Government Code, on surplus state real property, as defined by
40 Section 11011.1 of the Government Code, or on surplus land, as

1 defined by subdivision (b) of Section 54221 of the Government
2 Code.

3 (B) The rehabilitated structure includes affordable housing for
4 lower-income households, as defined by Section 50079.5 of the
5 Health and Safety Code.

6 (C) The structure is located in a designated census tract, as
7 defined in paragraph (7) of subdivision (b) of Section 17053.73.

8 (D) The structure is a part of a military base reuse authority
9 established pursuant to Title 7.86 (commencing with Section
10 67800) of the Government Code.

11 (E) The structure is a transit-oriented development that is a
12 higher density, mixed-use development within a walking distance
13 of one-half mile of a transit station.

14 (3) (A) The credit shall be allowed for qualified rehabilitation
15 expenditures for a qualified residence determined by the California
16 Tax Credit Allocation Committee and the Office of Historic
17 Preservation to have a public benefit in the year of completion in
18 the percentages specified in paragraphs (1) and (2), as applicable,
19 except that the credit shall only be allowed in an amount equal to
20 or more than five thousand dollars (\$5,000) but not exceeding
21 twenty-five thousand dollars (\$25,000). A taxpayer shall only be
22 allowed a credit pursuant to this paragraph once every 10 taxable
23 years.

24 (B) Section 47(c)(1)(C)(ii) of the Internal Revenue Code,
25 relating to special rule for phased rehabilitation, shall not apply.

26 (b) For purposes of this section, the following definitions shall
27 apply:

28 (1) "Certified historic structure" has the same meaning as
29 defined in Section 47(c)(3) of the Internal Revenue ~~Code and~~
30 ~~additionally means~~ *Code, that is* a structure in this state ~~that and~~
31 is listed on the California Register of Historical Resources.

32 (2) "Qualified residence" has the same meaning as that term is
33 defined in Section 163(h)(4) of the Internal Revenue Code, that
34 will be owned and occupied by an individual taxpayer who has a
35 modified adjusted gross income, as defined by Section 86(b)(2)
36 of the Internal Revenue Code, of two hundred thousand dollars
37 (\$200,000) or less, as the taxpayer's principal residence or what
38 will be the taxpayer's principal residence within two years after
39 the rehabilitation of the residence.

(3) (A) “Qualified rehabilitation expenditure” has the same meaning as that term is defined in Section ~~47(e)~~ 47(c)(2) of the Internal Revenue Code, except that qualified rehabilitation expenditures may include expenditures in connection with the rehabilitation of a building without regard to whether any portion of the building is or is reasonably expected to be tax-exempt use property.

(B) “Qualified rehabilitation expenditure” *has the same meaning as that term is defined in Section 47(c)(2) of the Internal Revenue Code* and also means rehabilitation expenditures incurred by the taxpayer with respect to a qualified residence for the rehabilitation of the exterior of the building or rehabilitation necessary for the functioning of the home, including, but not limited to, rehabilitation of the electrical, plumbing, or foundation of the qualified residence.

(c) (1) To be eligible for the credit allowed by this section, a taxpayer shall request a tax credit ~~reservation~~ *allocation* from the California Tax Credit Allocation Committee, in the form and manner prescribed by the California Tax Credit Allocation Committee.

(2) To obtain a tax credit ~~reservation~~, *allocation*, the taxpayer shall provide necessary information, as determined by the California Tax Credit Allocation Committee.

(3) A tax credit ~~reservation~~ *allocation* provided to a taxpayer shall not constitute a determination by the California Tax Credit Allocation Committee with respect to any of the requirements of this section regarding a taxpayer’s eligibility for the credit authorized by this section.

(4) If a taxpayer receives a tax credit ~~reservation~~ *allocation* but rehabilitation has not commenced within 18 months of the issuance of the tax credit ~~reservation~~, *allocation*, the tax credit ~~reservation~~ *allocation* shall be forfeited and the credit amount associated with the tax credit ~~reservation~~ *allocation* shall be treated as an unused allocation tax credit amount.

(d) A deduction shall not be allowed under this part for any expense for which a credit is allowed by this section.

(e) If a credit is allowed under this section with respect to any property, the basis of that property shall be reduced by the amount of the credit allowed.

(f) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net

1 tax” in the following year, and the seven succeeding years, if
2 necessary, until the credit is exhausted.

3 (g) For purposes of this section, the California Tax Credit
4 Allocation Committee shall do the following:

5 (1) On and after January 1, 2016, and before January 1, ~~2024,~~
6 ~~reserve and 2021~~, allocate tax credits to applicants.

7 (2) Establish a procedure for applicants to file with the California
8 Tax Credit Allocation Committee a written application, on a form
9 jointly prescribed by that office and the Office of Historic
10 Preservation for the ~~reservation~~ *allocation* of the tax credit.

11 (3) Establish criteria consistent with the requirements of this
12 section, for ~~reserving~~ *allocating* tax credits. A taxpayer shall not
13 receive a tax credit ~~reservation~~ *allocation* unless the following
14 criteria are met. Criteria shall include, but are not limited to, the
15 following:

16 (A) The number of jobs created by the rehabilitation project,
17 both during and after the rehabilitation of the structure.

18 (B) The expected increase in state and local tax revenues derived
19 from the rehabilitation project, including those from increased
20 wages and property taxes.

21 (C) Any additional incentives or contributions included in the
22 rehabilitation project from federal, state, or local governments.

23 (D) For the qualified rehabilitation expenditures with respect
24 to a qualified residence, the rehabilitation has a public benefit, as
25 determined jointly with the Office of Historic Preservation.

26 (4) Determine and designate, in consultation with the Office of
27 Historic Preservation, applicants that meet the requirements of this
28 section to ensure that the rehabilitation project meets the Secretary
29 of the Interior’s Standards for Rehabilitation, as found in Part 67
30 of Title 36 of the Code of Federal Regulations.

31 (5) Process and approve, or reject, all tax credit ~~reservation~~
32 *allocation* applications.

33 (6) (A) Subject to the annual cap established as provided in
34 subdivision (h), allocate an aggregate amount of credits under this
35 section and Section 23691, and allocate any carryover of
36 unallocated credits from prior years.

37 (B) A taxpayer shall be allocated a tax credit pursuant to the
38 taxpayer’s tax credit ~~reservation~~ *allocation* upon receipt by the
39 California Tax Credit Allocation Committee of a cost certification
40 for the qualified rehabilitation expenditures. For projects with

1 qualified rehabilitation expenditures in excess of two hundred fifty
2 thousand dollars (\$250,000), the cost certification shall be issued
3 by a licensed certified public accountant.

4 (7) Certify tax credits allocated to taxpayers.

5 (8) Provide the Franchise Tax Board an annual list of the
6 taxpayers that were allocated a credit pursuant to this section and
7 Section 23691, including each taxpayer's taxpayer identification
8 number, and the amount allocated to each taxpayer.

9 (9) *Establish procedures for the recapture of amounts allocated*
10 *for a tax credit allowed to a taxpayer for the rehabilitation of a*
11 *qualified residence if the taxpayer does not use the qualified*
12 *residence as his or her principal residence within two years after*
13 *the rehabilitation of the residence.*

14 (h) (1) The aggregate amount of credits that may be allocated
15 in any calendar year pursuant to this section and Section 23691
16 shall be an amount equal to the sum of all of the following:

17 (A) Fifty million dollars (\$50,000,000) in tax credits for the
18 2016 calendar year and each calendar year thereafter, through and
19 including the ~~2023~~ 2020 calendar year.

20 (B) The unused allocation tax credit amount, if any, for the
21 preceding calendar year.

22 (2) Notwithstanding the foregoing, the California Tax Credit
23 Allocation Committee shall set aside ten million dollars
24 (\$10,000,000) of tax credits *that may be allocated* each calendar
25 year for taxpayers *in the aggregate, pursuant to this paragraph*
26 *and paragraph (2) of subdivision (h) of Section 23691*, with
27 qualified rehabilitation expenditures of less than one million dollars
28 (\$1,000,000). To the extent that this amount is not fully ~~reserved~~
29 *allocated* in any calendar year, the unused portion shall become
30 available for ~~reservation~~ *allocation* to other taxpayers.

31 (i) In the case of any application for tax credits by an entity
32 treated as a partnership or ~~"S" corporation~~ for income tax purposes:

33 (1) ~~(A)~~ Credits awarded to a partnership shall be allocated to
34 the partners of that partnership in accordance with the partnership
35 agreement, regardless of how the federal historic rehabilitation tax
36 credit with respect to the project is allocated to the partners, or
37 whether the allocation of the credit under the terms of the
38 partnership agreement has substantial economic effect, within the
39 meaning of Section 704(b) of the Internal Revenue Code.

40 ~~(B)~~

(2) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the tax credit recapture period for the project described in subparagraph (A) shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until, and treated as if, it occurred in the first taxable year immediately following the taxable year in which the tax credit recapture period expires for the project described in subparagraph (A). The credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement.

~~(2) Credits awarded to an "S" corporation shall be allocated among the shareholders of that "S" corporation pro rata in accordance with their respective pro rata shares, determined in accordance with Subchapter S of Chapter 1 of the Internal Revenue Code and the regulations promulgated thereunder.~~

~~(j) Section 183 of the Internal Revenue Code shall not apply with respect to the credit allowed by this section.~~

~~(k)~~
(j) For purposes of this section, the provisions of subsection (a) of Section 50 of the Internal Revenue Code shall apply.

~~(l)~~
(k) Notwithstanding any other provision of this part, a credit allowed pursuant to this section may reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504, relating to the separate tax on lump-sum distributions, below the tentative minimum tax.

~~(m)~~
(l) This section shall remain in effect regardless of the expiration or repeal of Section 47 of the Internal Revenue Code, relating to rehabilitation credit.

~~(n)~~
(m) The California Tax Credit Allocation Committee may adopt a reasonable fee in an amount sufficient to cover the expenses incurred by the California Tax Credit Allocation Committee and the Office of Historic Preservation in fulfilling the responsibilities described in paragraphs (4) and (5) of subdivision (g) and paragraphs (4) and (5) of subdivision (g) of Section 23691

1 ~~(e)~~

2 ~~(n)~~ This section shall remain in effect only until December 1,
3 ~~2024, 2021~~, and as of that date is repealed.

4 SEC. 4. Section 23691 is added to the Revenue and Taxation
5 Code, to read:

6 23691. For each taxable year beginning on or after January 1,
7 2016, and before January 1, ~~2024, 2021~~, there shall be allowed to
8 a taxpayer that receives a tax credit ~~reservation~~ *allocation* a credit
9 against the “tax,” as defined in Section 23036, an amount
10 determined in accordance with Section 47 of the Internal Revenue
11 Code, except as follows:

12 (a) (1) In lieu of the percentages specified in Section 47(a) of
13 the Internal Revenue Code, except as provided in paragraph (2),
14 the applicable percentage shall be 20 percent of the qualified
15 rehabilitation expenditures with respect to a certified historic
16 structure.

17 (2) The applicable percentage shall be 25 percent of the qualified
18 rehabilitation expenditures with respect to a certified historic
19 structure if that certified historic structure meets one of the
20 following criteria:

21 (A) The rehabilitated structure is located on federal surplus
22 property, if obtained by a local agency under Section 54142 of the
23 Government Code, on surplus state real property, as defined by
24 Section 11011.1 of the Government Code, or on surplus land, as
25 defined by subdivision (b) of Section 54221 of the Government
26 Code.

27 (B) The rehabilitated structure includes affordable housing for
28 lower-income households, as defined by Section 50079.5 of the
29 Health and Safety Code.

30 (C) The structure is located in a designated census tract, as
31 defined in paragraph (7) of subdivision (b) of Section 17053.73.

32 (D) The structure is a part of a military base reuse authority
33 established pursuant to Title 7.86 (commencing with Section
34 67800) of the Government Code.

35 (E) The structure is a transit-oriented development that is a
36 higher density, mixed-use development within a walking distance
37 of one-half mile of a transit station.

38 (b) For purposes of this section, the following definitions shall
39 apply:

1 (1) “Certified historic structure” has the same meaning as
2 defined in Section 47(c)(3) of the Internal Revenue ~~Code and~~
3 ~~additionally means~~ *Code*, that is a structure in this state ~~that and~~
4 is listed on the California Register of Historical Resources.

5 (2) “Qualified rehabilitation expenditure” has the same meaning
6 as that term is defined in Section ~~47(e)~~ 47(c)(2) of the Internal
7 Revenue Code, except that qualified rehabilitation expenditures
8 may include expenditures in connection with the rehabilitation of
9 a building without regard to whether any portion of the building
10 is or is reasonably expected to be tax exempt use property.

11 (c) (1) To be eligible for the credit allowed by this section, a
12 taxpayer shall request a tax credit ~~reservation~~ *allocation* from the
13 California Tax Credit Allocation Committee, in the form and
14 manner prescribed by the California Tax Credit Allocation
15 Committee.

16 (2) To obtain a tax credit ~~reservation~~, *allocation*, the taxpayer
17 shall provide necessary information, as determined by the
18 California Tax Credit Allocation Committee.

19 (3) A tax credit ~~reservation~~ *allocation* provided to a taxpayer
20 shall not constitute a determination by the California Tax Credit
21 Allocation Committee with respect to any of the requirements of
22 this section regarding a taxpayer’s eligibility for the credit
23 authorized by this section.

24 (4) If a taxpayer receives a tax credit ~~reservation~~ *allocation* but
25 rehabilitation has not commenced within 18 months of the issuance
26 of the tax credit ~~reservation~~, *allocation*, the tax credit ~~reservation~~
27 *allocation* shall be forfeited and the credit amount associated with
28 the tax credit ~~reservation~~ *allocation* shall be treated as an unused
29 allocation tax credit amount.

30 (d) A deduction shall not be allowed under this part for any
31 expense for which a credit is allowed by this section.

32 (e) If a credit is allowed under this section with respect to any
33 property, the basis of that property shall be reduced by the amount
34 of the credit allowed.

35 (f) In the case where the credit allowed by this section exceeds
36 the “tax,” the excess may be carried over to reduce the “tax” in
37 the following year, and the seven succeeding years, if necessary,
38 until the credit is exhausted.

39 (g) For purposes of this section, the California Tax Credit
40 Allocation Committee shall do the following:

- 1 (1) On and after January 1, 2016, and before January 1, ~~2024,~~
2 ~~2021,~~ ~~reserve and~~ allocate tax credits to applicants.
- 3 (2) Establish a procedure for applicants to file with the California
4 Tax Credit Allocation Committee a written application, on a form
5 jointly prescribed by that office and the Office of Historic
6 Preservation for the ~~reservation~~ *allocation* of the tax credit.
- 7 (3) Establish criteria consistent with the requirements of this
8 section, for ~~reserving~~ *allocating* tax credits. A taxpayer shall not
9 receive a tax credit ~~reservation~~ *allocation* unless the following
10 criteria are met. Criteria shall include, but are not limited to, the
11 following:
- 12 (A) The number of jobs created by the rehabilitation project,
13 both during and after the rehabilitation of the structure.
- 14 (B) The expected increase in state and local tax revenues derived
15 from the rehabilitation project, including those from increased
16 wages and property taxes.
- 17 (C) Any additional incentives or contributions included in the
18 rehabilitation project from federal, state, or local governments.
- 19 (4) Determine and designate, in consultation with the Office of
20 Historic Preservation, applicants that meet the requirements of this
21 section to ensure that the rehabilitation project meets the Secretary
22 of the Interior's Standards for Rehabilitation, as found in Part 67
23 of Title 36 of the Code of Federal Regulations.
- 24 (5) Process and approve, or reject, all tax credit ~~reservation~~
25 *allocation* applications.
- 26 (6) (A) Subject to the annual cap established as provided in
27 subdivision (h), allocate an aggregate amount of credits under this
28 section and Section 17053.91, and allocate any carryover of
29 unallocated credits from prior years.
- 30 (B) A taxpayer shall be allocated a tax credit pursuant to the
31 taxpayer's tax credit ~~reservation~~ *allocation* upon receipt by the
32 California Tax Credit Allocation Committee of a cost certification
33 for the qualified rehabilitation expenditures. For projects with
34 qualified rehabilitation expenditures in excess of two hundred fifty
35 thousand dollars (\$250,000), the cost certification shall be issued
36 by a licensed certified public accountant.
- 37 (7) Certify tax credits allocated to taxpayers.
- 38 (8) Provide the Franchise Tax Board an annual list of the
39 taxpayers that were allocated a credit pursuant to this section and

1 Section 17053.91 including each taxpayer's taxpayer identification
2 number, and the amount allocated to each taxpayer.

3 (h) (1) The aggregate amount of credits that may be allocated
4 in any calendar year pursuant to this section and Section 17053.91
5 shall be an amount equal to the sum of all of the following:

6 (A) Fifty million dollars (\$50,000,000) in tax credits for the
7 2016 calendar year and each calendar year thereafter, through and
8 including the ~~2023~~ 2020 calendar year.

9 (B) The unused allocation tax credit amount, if any, for the
10 preceding calendar year.

11 (2) Notwithstanding the foregoing, the California Tax Credit
12 Allocation Committee shall set aside ten million dollars
13 (\$10,000,000) of tax credits *that may be allocated* each calendar
14 year for taxpayers *in the aggregate, pursuant to this paragraph*
15 *and paragraph (2) of subdivision (h) of Section 17053.91*, with
16 qualified rehabilitation expenditures of less than one million dollars
17 (\$1,000,000). To the extent that this amount is not fully ~~reserved~~
18 *allocated* in any calendar year, the unused portion shall become
19 available for ~~reservation~~ *allocation* to other taxpayers.

20 (i) In the case of any application for tax credits by an entity
21 treated as a partnership or ~~"S" corporation~~ for income tax purposes:

22 (1) ~~(A)~~ Credits awarded to a partnership shall be allocated to
23 the partners of that partnership in accordance with the partnership
24 agreement, regardless of how the federal historic rehabilitation tax
25 credit with respect to the project is allocated to the partners, or
26 whether the allocation of the credit under the terms of the
27 partnership agreement has substantial economic effect, within the
28 meaning of Section 704(b) of the Internal Revenue Code.

29 ~~(B)~~

30 (2) To the extent the allocation of the credit to a partner under
31 this section lacks substantial economic effect, any loss or deduction
32 otherwise allowable under this part that is attributable to the sale
33 or other disposition of that partner's partnership interest made prior
34 to the expiration of the tax credit recapture period for the project
35 described in subparagraph (A) shall not be allowed in the taxable
36 year in which the sale or other disposition occurs, but shall instead
37 be deferred until, and treated as if, it occurred in the first taxable
38 year immediately following the taxable year in which the tax credit
39 recapture period expires for the project described in subparagraph
40 (A). The credits awarded to a partnership shall be allocated to the

1 partners of that partnership in accordance with the partnership
2 agreement.

3 ~~(2) Credits awarded to an “S” corporation shall be allocated~~
4 ~~among the shareholders of that “S” corporation pro rata in~~
5 ~~accordance with their respective pro rata shares, determined in~~
6 ~~accordance with Subchapter S of Chapter 1 of the Internal Revenue~~
7 ~~Code and the regulations promulgated thereunder.~~

8 ~~(j) Section 183 of the Internal Revenue Code shall not apply~~
9 ~~with respect to the credit allowed by this section.~~

10 ~~(k)~~

11 (j) For purposes of this section, the provisions of subsection (a)
12 of Section 50 of the Internal Revenue Code shall apply.

13 ~~(l)~~

14 (k) Notwithstanding any other provision of this part, a credit
15 allowed pursuant to this section may reduce the “tax” below the
16 tentative minimum tax, as defined by paragraph (1) of subdivision
17 (a) of Section 23455.

18 ~~(m)~~

19 (l) This section shall remain in effect regardless of the expiration
20 or repeal of Section 47 of the Internal Revenue Code, relating to
21 rehabilitation credit.

22 ~~(n)~~

23 (m) The California Tax Credit Allocation Committee may adopt
24 a reasonable fee in an amount sufficient to cover the expenses
25 incurred by the California Tax Credit Allocation Committee and
26 the Office of Historic Preservation in fulfilling the responsibilities
27 described in paragraphs (4) and (5) of subdivision (g) and
28 paragraphs (4) and (5) of subdivision (g) of Section 17053.91.

29 ~~(o)~~

30 (n) This section shall remain in effect only until December 1,
31 2024, 2021, and as of that date is repealed.

32 *SEC. 5. For the purposes of complying with Section 41 of the*
33 *Revenue and Taxation Code, the Legislature finds and declares*
34 *as follows:*

35 (a) *The specific goals, purposes, and objectives that the tax*
36 *credits allowed by this act will achieve are as follows:*

37 (1) *Leveraging two hundred million dollars (\$200,000,000) in*
38 *private investment.*

39 (2) *Creating 1,600 construction jobs and an additional 1,250*
40 *ongoing jobs.*

1 (3) *Creating four hundred million dollars (\$400,000,000) in*
2 *economic activity.*

3 (b) *Detailed performance indicators for the Legislature to use*
4 *in determining whether the tax credits allowed by this act meet*
5 *those goals, purposes, and objectives:*

6 (1) *The amount of private sector investment enabled by*
7 *allocation of the credits allowed by this act.*

8 (2) *The number of construction jobs created as a result of this*
9 *investment.*

10 (3) *The projected number of long-term jobs associated with the*
11 *use of rehabilitated historic buildings and the overall economic*
12 *activity associated with the rehabilitation of historic buildings*
13 *facilitated by the credits allowed by this act.*

14 (c) *The data collection requirements for determining whether*
15 *the tax credit is meeting, failing to meet, or exceeding those specific*
16 *goals, purposes, and objectives are as follows:*

17 (1) *To assist the Legislature in measuring the determining*
18 *whether the tax credits allowed by this act meet the goals,*
19 *purposes, and objectives specified in subdivision (a), and in*
20 *carrying out his or her duties under Section 38.10 of the Revenue*
21 *and Taxation Code, the Legislative Analyst may request*
22 *information from the California Tax Credit Allocation Committee*
23 *and the Office of Historic Preservation relating to projects*
24 *approved for the tax credits allowed by this act.*

25 (2) *The California Tax Credit Allocation Committee and the*
26 *Office of Historic Preservation shall provide any data requested*
27 *by the Legislative Analyst pursuant to this subdivision.*

28 ~~SEC. 5.~~

29 SEC. 6. This act provides for a tax levy within the meaning
30 of Article IV of the Constitution and shall go into immediate effect.